

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF MODOC.

Frederick A. Murphey and Florence A. Murphey,  
husband and wife, and Lena Harkey Scott,  
Plaintiffs,

vs.

W. G. Warren and Dorothy Warren, husband and  
wife, Martha M. Cook, John W. Taylor and Lola  
Taylor, husband and wife, Jesse Parman and  
Dora Parman, husband and wife, John Erramouspe  
and Dominica Erramouspe, husband and wife,  
Glenn Hill and Cora Hill, husband and wife,  
William C. Baty and Roxey Baty, husband and wife,  
Mary M. Tripp, John Price, First Doe, Second Doe  
Third Doe, Fourth Doe, and Fifth Doe,  
Defendants.

No. 2840

DECREE

The above entitled cause having been referred to the Division of Water Rights (now Division of Water Resources) of the Department of Public Works of the State of California, as referee, by an order of this Court, dated April 1, 1927, and made under authority of law as conferred by Section 24 of the Water Commission Act of the State of California, Statutes 1913, Chapter 586, as amended, said referee having made its investigation, the parties hereto having thereafter entered into a written stipulation and agreement, said stipulation being comprised of two identical documents each of said documents being signed by different parties and said documents comprising said stipulation being marked Part 1 and Part 2, respectively, said stipulation providing that said referee might report to the above entitled Court a decree in accordance with the provisions of said stipulation and that said Court might enter a decree in accordance with the provisions of said stipulation, said parties having further stipulated that

findings of fact and conclusions of law be waived, said Division, as referee, having filed its report herein, which report embodies said stipulation of the parties, and said matter being finally submitted to this Court on said report, including said stipulation, and it appearing that said stipulation is signed by all of the parties who have appeared in this action or by their successors in interest and that said parties who have signed said stipulation are the owners of the rights as agreed upon and set forth in said stipulation, and it further appearing as follows:

(1) That William C. Baty and Roxey Baty, his wife, have sold, transferred and disposed of their interests in the property involved in said action to A. B. Catlin and that said A. B. Catlin is now the real party in interest in lieu of said William C. Baty and Roxey Baty.

(2) That Martha M. Cook has sold, transferred, and disposed of her interest in that portion of her property involved in said action, known as the Eyster Ranch, and all of her interest in the Eyster Ditch to Ernest E. Cook; that said Martha M. Cook has sold, transferred and disposed of her interest in the remaining portion of her property involved in said action, known as the Cook Ranch and all of her interest in the Company Ditch to Kenneth Cook and Floyd Cook, Minors; and that R. R. Baker is the guardian ad litem of said Kenneth Cook and Floyd Cook, Minors.

(3) That Cora Hill has died since the commencement of this action and that her surviving husband, Glenn Hill is the owner of the rights set forth under his name in said stipulation.

(4) That Frederick A. Murphey has died since the commencement of this action and that Florence A. Murphey, surviving wife is the administratrix of the estate of Frederick A. Murphey.

(5) That Niels H. Finmand as mortgagee of the property of Frederick A. Murphey, deceased, and Florence A. Murphey, involved in this action, has obtained under date of April 12, 1929, a decree of foreclosure; that said property was accordingly sold on May 11, 1929, to said Niels H. Finmand; and that said Niels H. Finmand is now the owner of said property.

6. That John Price has died since the commencement of this action; that the rights of said John Price, deceased, involved in this action are now in course of administration in this Court; that the heirs of said John Price, deceased are Martha B. Laniger, Cornelia Romero and Caesar Price; that said Caesar Price is an insane person and an inmate of the Napa State Hospital at Napa, California; and that A. K. Wylie is the guardian ad litem of said Caesar Price.

7. That since the commencement of this action and prior to her death, Mary M. Tripp sold, transferred and disposed of her interest in the property involved in this action to L. F. Tripp, and that said L. F. Tripp is now the real party in interest in lieu of said Mary M. Tripp, deceased.

NOW THEREFORE IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

(1st) That there is in said Modoc County a natural stream of water known as and called "Emerson Creek", which said creek arises on the eastern slope of the Warner Range of Mountains in said Modoc County, State of California, and flows thence in a general easterly direction between well defined banks in a well defined channel to, upon, and across some of the lands of some of the parties to this action which lands are hereinafter described, and has so flowed since the memory of Man.

(2nd) That in accordance with the stipulation hereinabove referred to and made a part hereof, by reference, the various parties to same and to whom rights are, by this decree, adjudged, have diverted and used water and are entitled to divert and use water in accordance with the terms and provisions contained in said stipulation and in this decree set forth, through various and sundry ditches, which said ditches are referred to by name, and the points of diversion of each are hereby adjudged and decreed to be as follows, to-wit:

TAYLOR DITCH

At a point which bears approximately N 86° 00' E., approximately 600 feet distant from the southwest corner of Section 36, T 40 N, R 16 E, M.D.B. & M., being within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 36.

EYSTER DITCH

At a point which bears approximately N 75° 00' E, approximately 620 feet distant from the southwest corner of Section 36, T 40 N, R 16 E, M.D.B. & M., being within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 36.

HILL DITCH

At a point which bears approximately N 59° 00' E, approximately 780 feet distant from the southwest corner of Section 36, T 40 N, R 16 E, M.D.B. & M., being within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 36.

BATY DITCH

At a point which bears approximately N 59° 00' E, approximately 950 feet distant from the southwest corner of Section 36, T 40 N, R 16 E, M.D.B. & M., being within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 36.

COMPANY DITCH

At a point which bears approximately N 53° 30' E, approximately 1540 feet distant from the southwest corner of Section 36, T 40 N, R 16 E, M.D.B. & M., being within the SE $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 36.

ERRAMOUSPE DITCH

At a point which bears approximately N 52° 30' E, approximately 1840 feet distant from the southwest corner of Section 36, T 40 N, R 16 E, M.D.B. & M., being within the SE $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 36.

SCOTT DITCH

At a point which bears approximately N 53° 00' E, approximately 1870 feet distant from the southwest corner of Section 36, T 40 N, R 16 E, M.D.B. & M., being within the SE $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 36.

OLD CHANNEL DIVERSION

At a point which bears approximately N 51° 30' E, approximately 2240 feet distant from the southwest corner of Section 36, T 40 N, R 16 E, M.D.B. & M., being within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 36.

WARREN DITCH

At a point which bears approximately N 49° 00' E, approximately 2780 feet distant from the southwest corner of Section 36, T 40 N, R 16 E, M.D.B. & M., being within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 36.

BROWN DITCH

At a point which bears approximately N 49° 00' E, approximately 3210 feet distant from the southwest corner of Section 36, T 40 N, R 16 E, M.D.B. & M., being within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 36.

MURPHEY DITCH

At a point which bears approximately N 14° 00' W, approximately 2420 feet distant from the southeast corner of Section 36, T 40 N, R 16 E, M.D.B. & M., being within the NE $\frac{1}{4}$  SE $\frac{1}{4}$  of said Section 36.

LOWER CHANNEL DIVERSION

At a point which bears approximately N 30° 00' E, approximately 3050 feet distant from the southwest corner of Section 31, T 40 N, R 17 E, M.D.B. & M., being within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section 31.

(3rd) That at the time of the commencement of this action, Frederick A. Murphey and Florence A. Murphey were the owners, in the possession and entitled to the possession, and for more than twenty years prior thereto, they and their grantors and predecessors in interest were the owners, in the possession and entitled to the possession, and that now Niels H. Finmand is the owner, in the possession and entitled to the possession of the following de-

scribed lands situated in said Modoc County, California, to-wit:

South one-half of the Northeast quarter ( $S\frac{1}{2} NE\frac{1}{4}$ ) of Section thirty-one (31); South one-half of the Northwest quarter ( $S\frac{1}{2} NW\frac{1}{4}$ ), and the Southwest quarter ( $SW\frac{1}{4}$ ) of Section thirty-two (32), all in Township forty (40) North, Range seventeen (17) East, M.D.B. & M.; Lot one (1), Southwest quarter of the Northwest quarter ( $SW\frac{1}{4} NW\frac{1}{4}$ ), and North one-half of the Northwest quarter ( $N\frac{1}{2} NW\frac{1}{4}$ ) of Section five (5), all in Township thirty-nine (39) North, Range seventeen (17) East, M.D.B. & M.

and that during all of said times said Murpheys and their grantors had irrigated from the waters of Emerson Creek, the following portions of said land, to-wit:

Thirty-six and one tenth (36.1) acres in said Southwest quarter of the Northeast quarter ( $SW\frac{1}{4} NE\frac{1}{4}$ ), and thirty-eight and two tenths (38.2) acres in said Southeast quarter of the Northeast quarter ( $SE\frac{1}{4} NE\frac{1}{4}$ ) of said Section thirty-one (31); thirty-four and six tenths (34.6) acres in said Southwest quarter of the Northwest quarter ( $SW\frac{1}{4} NW\frac{1}{4}$ ), three and five tenths (3.5) acres in said Southeast quarter of the Northwest quarter ( $SE\frac{1}{4} NW\frac{1}{4}$ ), thirty-eight and one tenth (38.1) acres in said Northeast quarter of the Southwest quarter ( $NE\frac{1}{4} SW\frac{1}{4}$ ), twenty-five and two tenths (25.2) acres in said South east quarter of the Southwest quarter ( $SE\frac{1}{4} SW\frac{1}{4}$ ), all of said Southwest quarter of the Southwest quarter ( $SW\frac{1}{4} SW\frac{1}{4}$ ), and thirty-eight and five tenths (38.5) acres in said Northwest quarter of the Southwest quarter ( $NW\frac{1}{4} SW\frac{1}{4}$ ) of said Section thirty-two (32); thirty-one and four tenths (31.4) acres in said Lot one (1), nine and one tenth (9.1) acres in said Southwest quarter of the Northwest quarter ( $SW\frac{1}{4} NW\frac{1}{4}$ ), thirteen and six tenths (13.6) acres in said Northwest quarter of the Northwest quarter ( $NW\frac{1}{4} NW\frac{1}{4}$ ), and nine and eight tenths (9.8) acres in said Northeast quarter of the Northwest quarter ( $NE\frac{1}{4} NW\frac{1}{4}$ ) of said Section five (5).

(4) That at the time of commencement of this action, Lena Harkey Scott was the owner, in the possession, and entitled to the possession, and for more than twenty years prior thereto, she and her grantors and predecessors in interest were the owners, in the possession, and entitled to the possession of the following described lands situated in said Modoc County, California, to-wit:

South one-half ( $S\frac{1}{2}$ ), and Northwest quarter ( $NW\frac{1}{4}$ ) of Section thirty-one (31), Township forty (40) North, Range seventeen (17) East, M.D.B. & M. North one-half ( $N\frac{1}{2}$ ), Northwest quarter of the Southeast quarter ( $NW\frac{1}{4} SE\frac{1}{4}$ ), and Northeast quarter of the Southwest quarter ( $NE\frac{1}{4} SW\frac{1}{4}$ ) of Section six (6), Township thirty-nine (39) North, Range seventeen (17) East, M.D.B. & M.; and East one-half of the Southeast quarter ( $E\frac{1}{2} SE\frac{1}{4}$ ) of Section Thirty-six (36), Township forty (40) North, Range sixteen (16) East, M.D.B. & M.

and that during all of said times she and her grantors have irrigated from the waters of Emerson Creek, the following portions of said land, to-wit:

All of said Southeast quarter of the Southeast quarter ( $SE\frac{1}{4} SE\frac{1}{4}$ ), thirty-seven and six tenths (37.6) acres in said Southwest quarter of the Southeast quarter ( $SW\frac{1}{4} SE\frac{1}{4}$ ), thirty and four tenths (30.4) acres in

said Southeast quarter of the Southwest quarter ( $SE\frac{1}{4} SW\frac{1}{4}$ ), thirty-four and nine tenths (34.9) acres in said Southwest quarter of the Southwest quarter ( $SW\frac{1}{4} SW\frac{1}{4}$ ), thirty-one and six tenths (31.6) acres in said Northwest quarter of the Southwest quarter ( $NW\frac{1}{4} SW\frac{1}{4}$ ), thirty-seven and three tenths (37.3) acres in said Northeast quarter of the Southwest quarter ( $NE\frac{1}{4} SW\frac{1}{4}$ ), thirty-eight and nine tenths (38.9) acres in said Northwest quarter of the Southeast quarter ( $NW\frac{1}{4} SE\frac{1}{4}$ ), thirty-eight and four tenths (38.4) acres in said Northeast quarter of the Southeast quarter ( $NE\frac{1}{4} SE\frac{1}{4}$ ), thirty-eight and one tenth (38.1) acres in said Northwest quarter of the Northwest quarter ( $NW\frac{1}{4} NW\frac{1}{4}$ ), all of said Northeast quarter of the Northwest quarter ( $NE\frac{1}{4} NW\frac{1}{4}$ ), thirty-three and three tenths (33.3) acres in said Southeast quarter of the Northwest quarter ( $SE\frac{1}{4} NW\frac{1}{4}$ ), and thirty-four and three tenths (34.3) acres in said Southwest quarter of the Northwest quarter ( $SW\frac{1}{4} NW\frac{1}{4}$ ), of said Section thirty-one (31); thirty-nine and seven tenths (39.7) acres in said Northeast quarter of the Northeast quarter ( $NE\frac{1}{4} NE\frac{1}{4}$ ), twenty-eight and one tenth (28.1) acres in said Southeast quarter of the Northeast quarter ( $SE\frac{1}{4} NE\frac{1}{4}$ ), nine and nine tenths (9.9) acres in said Northwest quarter of the Southeast quarter ( $NW\frac{1}{4} SE\frac{1}{4}$ ), forty and seven tenths (40.7) acres in said Southwest quarter of the Northeast quarter ( $SW\frac{1}{4} NE\frac{1}{4}$ ), thirty-eight and eight tenths (38.8) acres in said Northwest quarter of the Northeast quarter ( $NW\frac{1}{4} NE\frac{1}{4}$ ), forty-one and five tenths (41.5) acres in said Northeast quarter of the Northwest quarter ( $NE\frac{1}{4} NW\frac{1}{4}$ ), thirty-five and six tenths (35.6) acres in said Southeast quarter of the Northwest quarter ( $SE\frac{1}{4} NW\frac{1}{4}$ ), four and three tenths (4.3) acres in said Northeast quarter of the Southwest quarter ( $NE\frac{1}{4} SW\frac{1}{4}$ ), five tenths (0.5) acre in said Southwest quarter of the Northwest quarter ( $SW\frac{1}{4} NW\frac{1}{4}$ ), and twenty-eight and one tenth (28.1) acres in said Northwest quarter of the Northwest quarter ( $NW\frac{1}{4} NW\frac{1}{4}$ ), of said Section six (6); four and two tenths (4.2) acres in said Southeast quarter of the Southeast quarter ( $SE\frac{1}{4} SE\frac{1}{4}$ ), and one and five tenths (1.5) acres in said Northeast quarter of the Southeast quarter ( $NE\frac{1}{4} SE\frac{1}{4}$ ) of said Section thirty-six (36).

(5th) That at the time of the commencement of this action, W. G. Warren and Dorothy Warren were the owners, in the possession and entitled to the possession, and for more than twenty years prior thereto, they and their grantors and predecessors in interest were the owners, in the possession, and entitled to the possession of the following described lands situated in said Modoc County, California, to-wit:

Southwest quarter of the Southwest quarter ( $SW\frac{1}{4} SW\frac{1}{4}$ ) of Section thirty (30), Township forty (40) North, Range seventeen (17) East, M.D.B. & M. Southeast quarter of the Northeast quarter ( $SE\frac{1}{4} NE\frac{1}{4}$ ), and East one-half of the Southeast quarter ( $E\frac{1}{2} SE\frac{1}{4}$ ) of Section twenty-five (25), Township forty (40) North, Range sixteen (16) East, M.D.B. & M.

and that during all of said times they and their grantors have irrigated from the waters of Emerson Creek, the following portions of said land, to-wit:

Thirty-six and eight tenths (36.8) acres in said Southwest quarter of the Southwest quarter ( $SW\frac{1}{4} SW\frac{1}{4}$ ) of said Section thirty (30); ten and seven tenths (10.7) acres in said Southeast quarter of the Northeast quarter ( $SE\frac{1}{4} NE\frac{1}{4}$ ), thirty-nine and five tenths (39.5) acres in said Northeast quarter of the Southeast quarter ( $NE\frac{1}{4} SE\frac{1}{4}$ ), and thirty-eight and eight tenths (38.8) acres in said Southeast quarter of the Southeast quarter ( $SE\frac{1}{4} SE\frac{1}{4}$ ) of said Section twenty-five (25).

(6) That at the time of the commencement of this action, Martha M. Cook was the owner, in the possession, and entitled to the possession, and for more than twenty years prior thereto, she and her grantors and predecessors in interest were the owners, in the possession, and entitled to the possession, and that now Ernest E. Cook is the owner, in the possession, and entitled to the possession of the following described lands situated in said Modoc County, California, to-wit:

Southeast quarter of the Northwest quarter ( $SE\frac{1}{4} NW\frac{1}{4}$ ), Southwest quarter of the Northeast quarter ( $SW\frac{1}{4} NE\frac{1}{4}$ ), west one-half of the Southeast quarter ( $W\frac{1}{2} SE\frac{1}{4}$ ), and East one-half of the Southwest quarter ( $E\frac{1}{2} SW\frac{1}{4}$ ) of Section twenty-five (25), Township forty (40) North, Range sixteen (16) East, M.D.B. & M.

and that during all of said times said Martha M. Cook and her grantors had irrigated from the waters of Emerson Creek, the following portions of said land, to-wit:

Two (2.0) acres in said Southeast quarter of the Northwest quarter ( $SE\frac{1}{4} NW\frac{1}{4}$ ), ten and two tenths (10.2) acres in said Southwest quarter of the Northeast quarter ( $SW\frac{1}{4} NE\frac{1}{4}$ ), all of said west one-half of the Southeast quarter ( $W\frac{1}{2} SE\frac{1}{4}$ ) containing eighty and three tenths (80.3) acres, thirty-one and seven tenths (31.7) acres in said Southeast quarter of the Southwest quarter ( $SE\frac{1}{4} SW\frac{1}{4}$ ), and thirty-eight and one tenth (38.1) acres in said Northeast quarter of the Southwest ( $NE\frac{1}{4} SW\frac{1}{4}$ ) of said Section twenty-five (25).

(7th) That at the time of the commencement of this action, Martha M. Cook was the owner, in the possession and entitled to the possession, and for more than twenty years prior thereto, she and her grantors and predecessors in interest were the owners, in the possession, and entitled to the possession, and that now Kenneth Cook and Floyd Cook are the owners, in the possession, and entitled to the possession of the following described lands situated in Modoc County, California, to-wit:

Northeast quarter ( $NE\frac{1}{4}$ ) of Section thirty-six (36), Township forty (40) North, Range sixteen (16) East, excepting the South ten (10) acres of the Southeast quarter of said Northeast quarter ( $SE\frac{1}{4} NE\frac{1}{4}$ ).

and that during all of said times, said Martha M. Cook and her grantors had irrigated from the waters of Emerson Creek, the following portions of said land, to-wit:

Forty and three tenths (40.3) acres in said Northwest quarter of the Northeast quarter ( $NW\frac{1}{4} NE\frac{1}{4}$ ), thirty-five and nine tenths (35.9) acres in said Northeast quarter of the Northeast quarter ( $NE\frac{1}{4} NE\frac{1}{4}$ ), twenty-six

and six tenths (26.6) acres in said Southeast quarter of the Northeast quarter ( $SE\frac{1}{4} NE\frac{1}{4}$ ), and nine and five tenths (9.5) acres in said Southwest quarter of the Northeast quarter ( $SW\frac{1}{4} NE\frac{1}{4}$ ) of said Section thirty-six (36).

(8th) That at the time of the commencement of this action, John W. Taylor and Lola Taylor were the owners, in the possession, and entitled to the possession, and for more than twenty years prior thereto, they and their grantors and predecessors in interest were the owners, in the possession and entitled to the possession of the following described lands situated in said Modoc County, California, to-wit:

West one-half of the Southwest quarter ( $W\frac{1}{2} SW\frac{1}{4}$ ) of Section twenty-five (25); West one-half of the Northwest quarter ( $W\frac{1}{2} NW\frac{1}{4}$ ) of Section thirty-six (36); Southeast quarter of the Southeast quarter ( $SE\frac{1}{4} SE\frac{1}{4}$ ) of Section twenty-six (26); and Northeast quarter of the Northeast quarter ( $NE\frac{1}{4} NE\frac{1}{4}$ ) of Section thirty-five (35), all in Township forty (40) North, Range sixteen (16) East, M.D.B. & M.

and that during all of said times they and their grantors have irrigated from the waters of Emerson Creek, the following portions of said land, to-wit:

Thirteen and eight tenths (13.8) acres in said Northwest quarter of the Southwest quarter ( $NW\frac{1}{4} SW\frac{1}{4}$ ), and nine (9.0) acres in said Southwest quarter of the Southwest quarter ( $SW\frac{1}{4} SW\frac{1}{4}$ ) of said Section twenty-five (25); thirty-six and four tenths (36.4) acres in said Northwest quarter of the Northwest quarter ( $NW\frac{1}{4} NW\frac{1}{4}$ ), and seven and one tenth (7.1) acres in said Southwest quarter of the Northwest quarter ( $SW\frac{1}{4} NW\frac{1}{4}$ ) of said Section thirty-six (36); one (1.0) acre in said Northeast quarter of the Northeast quarter ( $NE\frac{1}{4} NE\frac{1}{4}$ ) of said Section thirty-five (35); and eight and nine tenths (8.9) acres in said Southeast quarter of the Southeast quarter ( $SE\frac{1}{4} SE\frac{1}{4}$ ) of said Section twenty-six (26).

(9th) That at the time of the commencement of this action, Jesse Parman and Dora Parman were the owners, in the possession, and entitled to the possession, and for more than twenty years prior thereto, they and their grantors and predecessors in interest were the owners, in the possession, and entitled to the possession of the following described lands situated in said Modoc County, California, to-wit:

Southeast quarter of the Southeast quarter ( $SE\frac{1}{4} SE\frac{1}{4}$ ) of Section thirty (30); South one-half of the Southwest quarter ( $S\frac{1}{2} SW\frac{1}{4}$ ) of Section twenty-nine (29); and North one-half of the Northwest quarter ( $N\frac{1}{2} NW\frac{1}{4}$ ) of Section thirty-two (32), all in Township forty (40) North, Range seventeen (17) East, M.D.B. & M.

and that during all of said times, they and their grantors have irrigated from the waters of Emerson Creek, the following portions of said land, to-wit:



Thirty-one and three tenths (31.3) acres in said Southeast quarter of the Southeast quarter ( $SE\frac{1}{4} SE\frac{1}{4}$ ) of said Section thirty (30); eighteen and seven tenths (18.7) acres in said Southwest quarter of the Southwest quarter ( $SW\frac{1}{4} SW\frac{1}{4}$ ), and one and six tenths (1.6) acres in said Southeast quarter of the Southwest quarter ( $SE\frac{1}{4} SW\frac{1}{4}$ ) of said Section twenty-nine (29).

(10th) That at the time of the commencement of this action, John Erramouspe and Dominica Erramouspe were the owners, in the possession, and entitled to the possession, and for more than twenty years prior thereto, they and their grantors and predecessors in interest were the owners, in the possession, and entitled to the possession of the following described lands situated in said Modoc County, California, to-wit:

North one-half of the Southeast quarter ( $N\frac{1}{2} SE\frac{1}{4}$ ), Southeast quarter of the Southwest quarter ( $SE\frac{1}{4} SW\frac{1}{4}$ ), and Southwest quarter of the Southeast quarter ( $SW\frac{1}{4} SE\frac{1}{4}$ ) of Section thirty (30); North one-half of the Northeast quarter ( $N\frac{1}{2} NE\frac{1}{4}$ ) of Section thirty-one (31); South one-half of the Southwest quarter ( $S\frac{1}{2} SW\frac{1}{4}$ ), and Southwest quarter of the Southeast quarter ( $SW\frac{1}{4} SE\frac{1}{4}$ ) of Section twenty-nine (29), all in Township forty (40) North, Range seventeen (17) East, M.D.B. & M.

and that during all of said times, they and their grantors have irrigated from the waters of Emerson Creek, the following portions of said land, to-wit:

Thirty-five and five tenths (35.5) acres in said Northwest quarter of the Southeast quarter ( $NW\frac{1}{4} SE\frac{1}{4}$ ), all of said Northeast quarter of the Southeast quarter ( $NE\frac{1}{4} SE\frac{1}{4}$ ), thirty-six and one tenth (36.1) acres in said Southeast quarter of the Southwest quarter ( $SE\frac{1}{4} SW\frac{1}{4}$ ), and thirty-nine and six tenths (39.6) acres in said Southwest quarter of the Southeast quarter ( $SW\frac{1}{4} SE\frac{1}{4}$ ) of said Section thirty (30); all of said Northwest quarter of the Northeast quarter ( $NW\frac{1}{4} NE\frac{1}{4}$ ), and thirty-eight and seven tenths (38.7) acres in said Northeast quarter of the Northeast quarter ( $NE\frac{1}{4} NE\frac{1}{4}$ ) of said Section thirty-one (31).

(11th) That at the time of the commencement of this action, Glenn Hill and Cora Hill were the owners, in the possession, and entitled to the possession, and for more than twenty years prior thereto, they and their grantors and predecessors in interest were the owners in the possession, and entitled to the possession, and that now Glenn Hill is the owner, in the possession, and entitled to the possession of the following described lands situated in said Modoc County, California, to-wit:

Northeast quarter of the Northwest quarter ( $NE\frac{1}{4} NW\frac{1}{4}$ ), and that portion of the Southeast quarter of the Northwest quarter ( $SE\frac{1}{4} NW\frac{1}{4}$ ) described as commencing at the Northeast (NE) corner of said Southeast quarter of the Northwest quarter ( $SE\frac{1}{4} NW\frac{1}{4}$ ), running thence South 702 feet, thence North 75 degrees, 43 minutes West to the West line of said Southeast quarter of the Northwest quarter ( $SE\frac{1}{4} NW\frac{1}{4}$ ), thence North to the Northwest (NW) corner thereof, and thence East to the point of commencement, all in Section thirty-six (36), Township forty (40) North, Range sixteen (16) East, M.D.B. & M.

and that during all of said times, said Glenn Hill and said Cora Hill and their grantors had irrigated from the waters of Emerson Creek, the following portions of said land, to-wit:

Thirty-seven and eight tenths (37.8) acres in said Northeast quarter of the Northwest quarter ( $NE\frac{1}{4} NW\frac{1}{4}$ ), and fifteen and nine tenths (15.9) acres in said Southeast quarter of the Northwest quarter ( $SE\frac{1}{4} NW\frac{1}{4}$ ) of said Section thirty-six (36).

(12th) That at the time of commencement of this action, William C. Baty and Roxey Baty were the owners, in the possession, and entitled to the possession, and for more than twenty years prior thereto, they and their grantors and predecessors in interest were the owners, in the possession, and entitled to the possession, and that now A. B. Catlin is the owner, in the possession, and entitled to the possession of the following described lands situated in said Modoc County, California, to-wit:

That portion of the Southeast quarter of the Northwest quarter ( $SE\frac{1}{4} NW\frac{1}{4}$ ) described as commencing at the center of Section thirty-six (36) Township forty (40) North, Range sixteen (16) East, M.D.B. & M., running thence South 89 degrees 42 minutes West 1033 feet, thence North 50 minutes East 886 feet, thence South 75 degrees 43 minutes East 1062 feet to the East line of the Northwest quarter ( $NW\frac{1}{4}$ ) of said Section thirty-six (36), thence South 50 minutes West 618 feet to the point of commencement, all being in said Section thirty-six (36).

and that during all of said times, said William C. Baty and Roxey Baty and their grantors had irrigated from the waters of Emerson Creek, the following portion of said land, to-wit:

Twelve and nine tenths (12.9) acres in said Southeast quarter of the Northwest quarter ( $SE\frac{1}{4} NW\frac{1}{4}$ ) of said Section thirty-six (36).

(13th) That at the time of commencement of this action, Mary M. Tripp was the owner, in the possession, and entitled to the possession, and for more than twenty years prior thereto, she and her grantors and predecessors in interest were the owners, in the possession, and entitled to the possession, and that now L. F. Tripp is the owner, in the possession, and entitled to the possession of the following described land situated in said Modoc County, California, to-wit:

That portion of the Southeast quarter of the Northwest quarter ( $SE\frac{1}{4} NW\frac{1}{4}$ ) described as commencing at a point 1033 feet west from the center of Section thirty-six (36), Township forty (40) North, Range sixteen (16) East, M.D.B. & M., running thence West 265 feet, thence North 1006 feet, thence South 75 degrees 43 minutes East to a point 950 feet more or less North of the point of beginning, all being in said Section thirty-six (36).

and that during all of said times, said Mary M. Tripp and her grantors had irrigated from the waters of Emerson Creek, the following portion of said land, to-wit:

Four and nine tenths (4.9) acres in said Southeast quarter of the Northwest quarter ( $SE\frac{1}{4} NW\frac{1}{4}$ ) of said Section thirty-six (36).

(14th) That at the time of the commencement of this action, John Price was the owner, in the possession, and entitled to the possession, and for more than twenty years prior thereto, he and his grantors and predecessors in interest were the owners, in the possession, and entitled to the possession, and that now the heirs of John Price, deceased, are the owners, in the possession, and entitled to the possession of the following described land situated in said Modoc County, California, to-wit:

South one-half of the South one-half of the Southeast quarter of the Northeast quarter ( $S\frac{1}{2} S\frac{1}{2} SE\frac{1}{4} NE\frac{1}{4}$ ) of Section thirty-six (36), Township forty (40) North, Range sixteen (16) East, M.D.B. & M.

and that during all of said times, said John Price and his grantors had irrigated from the waters of Emerson Creek, the following portion of said land, to-wit:

Eight and five tenths (8.5) acres in said South one-half of the South one-half of the Southeast quarter of the Northeast quarter ( $S\frac{1}{2} S\frac{1}{2} SE\frac{1}{4} NE\frac{1}{4}$ ) of said Section thirty-six (36).

(15th) IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that W. G. Warren and Dorothy Warren, jointly, Kenneth Cook and Floyd Cook, jointly, John Erramouspe and Dominica Erramouspe, jointly, Niels H. Finmand, Lena Harkey Scott, Ernest E. Cook, Glenn Hill, L. F. Tripp, A. B. Catlin, and the heirs of John Price, deceased, are the owners of the first right in and to the waters of said Emerson Creek, and in and to the use thereof, during the period from January first to December thirty-first, inclusive, of each and every year, in the respective amounts of water set opposite their respective names, through the respective ditches set opposite their respective names, for use upon their respective lands so heretofore irrigated and hereinbefore described, to-wit:

| Name  | Ditch   | Cubic Feet per Second |
|---|---------|-----------------------|
| Niels H. Finmand                            | Murphey | 0.20                  |
| W. G. Warren and Dorothy Warren,<br>jointly | Warren  | 0.20                  |

| Name   | Ditch                | Cubic Feet per Second |
|--|----------------------|-----------------------|
| Kenneth Cook and Floyd Cook, jointly             | Company              | 0.20                  |
| John Erramouspe and Dominica Erramouspe, jointly | Erramouspe           | 0.25                  |
| Lena Harkey Scott                                | Scott, and, or Brown | 0.40                  |
| Ernest E. Cook                                   | Eyster               | 0.10                  |
| Glenn Hill                                       | Eyster               | 0.10                  |
| L. F. Tripp                                      | Eyster               | 0.20                  |
| A. B. Catlin                                     | Baty                 | 0.20                  |
| Heirs of John Price, deceased                    | Company              | 0.20                  |

2.05

That each and all of the foregoing rights and allotments are first rights for continuous use for garden irrigation, domestic and stock watering purposes throughout the entire year, and are superior to all other rights to the use of water from said Emerson Creek; and that said allotments of first priority are on an equal and correlative basis as to point of time and priority, and that at all times when the net available water supply of said creek is inadequate to fully supply the aggregate of such allotments of first priority, then during the continuance of such shortage, the owners of said allotments of first priority shall divide the net available water supply of said creek in the ratios that their respective allotments of first priority specified hereinabove in this paragraph bear to the total of said allotments of first priority.

(16th) That subject to the rights, hereinbefore adjudged and decreed, John Erramouspe and Dominica Erramouspe, jointly, W. G. Warren and Dorothy Warren, jointly, Niels H. Finmand, Ernest E. Cook, and Lena Harkey Scott are the owners of the second right in and to the waters of said Emerson Creek, and in and to the use thereof, during the period from April first to September thirtieth, inclusive, of each and every year, in the respective amounts of water set opposite their respective names, through the respective ditches set opposite their respective names, for use upon their respective lands so heretofore irrigated and hereinbefore described, to-wit:

| Name   | Ditch                | Cubic Feet per Second |
|--|----------------------|-----------------------|
| John Erramouspe and Dominica Erramouspe, jointly | Erramouspe           | 1.55                  |
| W. G. Warren and Dorothy Warren, jointly         | Warren               | 1.40                  |
| Niels H. Finmand                                 | Murphey              | 1.55                  |
| Ernest E. Cook                                   | Eyster               | 1.90                  |
| Lena Harkey Scott                                | Scott, and, or Brown | 5.15 / 11.55          |

That said rights in this paragraph adjudged and decreed are for use for irrigation purposes and are inferior and subject to all rights in this decree hereinbefore adjudged and decreed, but are superior to all other rights to the use of water from said Emerson Creek; and that said allotments of second priority are on an equal and correlative basis as to point of time and priority, and that at all times when the net available water supply of said creek is inadequate to supply all prior rights and to fully supply such allotments of second priority, then during the continuance of such shortage, the owners of said allotments of second priority shall divide the water, if any, which may be flowing in said creek in excess of all prior rights, in the ratios that their respective allotments of second priority specified hereinabove in this paragraph bear to the total of said allotments of second priority.

(17th) That subject to the rights hereinbefore adjudged and decreed, John W. Taylor and Lola Taylor, jointly, Kenneth Cook and Floyd Cook, jointly, John Erramouspe and Dominica Erramouspe, jointly, Jesse Parman and Dora Parman, jointly, Niels H. Finmand, A. B. Catlin, Lena Harkey Scott, and the heirs of John Price, deceased, are the owners of the third right in and to the waters of said Emerson Creek, and in and to the use thereof, during the period from April first to September thirtieth, inclusive, of each and every year, in the respective amounts of water set opposite their respective names, through the respective ditches set opposite their respective names, for use upon their respective lands so heretofore irrigated and hereinbefore described, to-wit:

| Name   | Ditch                     | Cubic Feet per Second |
|--|---------------------------|-----------------------|
| John W. Taylor and Lola Taylor, jointly          | Taylor                    | 0.60                  |
| Kenneth Cook and Floyd Cook, jointly             | Company                   | 1.20                  |
| John Erramouspe and Dominica Erramouspe, jointly | Company                   | 0.45                  |
| Jesse Parman and Dora Parman, Jointly            | Company                   | 0.60                  |
| Niels H. Finmand                                 | Lower Channel             | 1.30                  |
| A. B. Catlin                                     | Baty                      | 0.05                  |
| Lena Harkey Scott                                | Old Channel and, or Scott | 2.25                  |
| Heirs of John Price, deceased                    | Company                   | 0.05                  |

16.56

That said rights in this paragraph adjudged and decreed are for use for irrigation purposes and are inferior and subject to all rights in this decree hereinbefore adjudged and decreed, but are superior to all other rights to the use of water from said Emerson Creek; and that said allotments of third priority are on an equal and correlative basis as to point of time and priority, and that at all times when the net available water supply of said creek is inadequate to supply all prior rights and to fully supply such allotments of third priority, then during the continuance of such shortage, the owners of said allotments of third priority shall divide the water, if any, which may be flowing in said creek in excess of all prior rights, in the ratios that their respective allotments of third priority specified hereinabove in this paragraph bear to the total of said allotments of third priority.

(18th) That subject to the rights hereinbefore adjudged and decreed, John W. Taylor and Lola Taylor, jointly, Niels H. Finmand, Glenn Hill and Lena Harkey Scott are the owners of the fourth right in and to the waters of said Emerson Creek, and in and to the use thereof, during the period from April first to September thirtieth, inclusive, of each and every year, in the respective amounts of water set opposite their respective names, through the respective ditches set opposite their respective names, for use upon their respective lands so heretofore irrigated and hereinbefore described, to-wit:

| Name                                    | Ditch                     | Cubic Feet per Second |
|---|---------------------------|-----------------------|
| John W. Taylor and Lola Taylor, jointly | Taylor                    | 1.40                  |
| Glenn Hill                              | Hill                      | 1.30                  |
| Lena Harkey Scott                       | Old Channel and, or Scott | 1.00                  |
| Niels H. Finmand                        | Lower Channel             | 0.85 <i>1.55</i>      |

That said rights in this paragraph adjudged and decreed are for use for irrigation purposes and are inferior and subject to all rights in this decree hereinbefore adjudged and decreed; and that said allotments of fourth priority are on an equal and correlative basis as to point of time and priority, and that at all times when the net available water supply of said Emerson Creek is inadequate to supply all prior rights and to fully supply such allotments of fourth priority, then during the continuance of such shortage, the owners of said allotments of fourth priority shall divide the water, if any, which may be flowing in said creek in excess of all prior rights, in the ratios that their respective allotments of fourth priority specified hereinabove in this paragraph bear to the total of said allotments of fourth priority.

(19th) IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the points of measurement of all allotments in this decree adjudged and decreed shall be at the respective points of diversion from said Emerson Creek.

(20th) IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that no party herein adjudged and decreed a right to divert water shall divert from said Emerson Creek at any time, a quantity of water in excess of the quantity reasonably necessary for his requirements and being put to beneficial use by said party.

(21st) IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each and every party to this action, his or her agents, successors, grantees and assigns, be, and they are hereby perpetually enjoined and restrained from doing anything in violation of the terms or provisions of this decree, or diverting any water from said Emerson Creek at any time in violation of the terms hereof, or from doing anything that will obstruct or interfere with any other right in this

decree adjudged and decreed.

(22nd) IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the owners of every ditch through which water is diverted from Emerson Creek as herein provided, shall install in or for their respective ditches, prior to July 1, 1930, or such later date as may be ordered by this court, such permanent diversion works, headgates and measuring devices as shall be required and approved by the Division of Water Resources of the Department of Public Works of the State of California, and that said ditch owners shall furnish all materials and labor necessary for such installations in or for their respective ditches, and that all costs and expenses incurred by said Division of Water Resources, in supervising such installations shall be borne by the respective ditch owners in the following proportion, to-wit:

| Name of Party                           | Per Cent of Total Cost |
|---|------------------------|
| A. B. Catlin                            | 1.1                    |
| Ernest E. Cook                          | 8.7                    |
| Kenneth Cook and Floyd Cook             | 6.1                    |
| John Erramouspe and Dominica Erramouspe | 9.8                    |
| Glenn Hill                              | 3.3                    |
| Niels H. Finmand                        | 16.9                   |
| Jesse Parman and Dora Parman            | 2.6                    |
| Heirs of John Price Estate              | 1.1                    |
| Lena Harkey Scott                       | 38.2                   |
| John W. Taylor and Lola Taylor          | 4.3                    |
| L. F. Tripp                             | 0.9                    |
| W. G. Warren and Dorothy Warren         | 7.0                    |

(23rd) IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Division of Water Resources of the Department of Public Works of the State of California, as now or hereafter constituted, or its successor in the administration of the Water Commission Act, shall administer the diversions of water from said Emerson Creek, through the agency of a water master, whenever such water master service is found necessary by said Division in order to insure strict adherence to the



provisions of this decree, and that all costs and expenses of such water master service shall be borne by the parties hereto, in the proportion set forth in paragraph 22 hereof.

(24th) FINALLY IT IS ORDERED, ADJUDGED, AND DECREED that each party hereto shall pay his own costs; that the expenses incurred by said Division of Water Resources, as referee, as set forth in the report of referee on file in this action shall be borne by the parties hereto in the proportion set forth in paragraph 22 hereof; and that the parties hereto shall pay such assessments to the clerk of this court within thirty days from the date of this decree, said clerk to transmit said sums when paid to said Division of Water Resources, 401 Public Works Building, Sacramento, California.

Done in open court this twenty-fifth day of March, 1930.

E. C. BONNER  
Acting Judge of Said Superior Court